LEGISLATIVE GENERAL COUNSEL
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₵ 03-02-22 2:16 PM ₵

H.B. 303
3rd Sub. (Cherry)

Senator Curtis S. Bramble proposes the following substitute bill:

LOCAL LAND USE AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Val L. Peterson

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill revises provisions related to municipal and county land use development and management.

Highlighted Provisions:

This bill:

- modifies provisions related to when a person may challenge an annexation in district court;
- modifies notice requirements after a municipality receives a request for disconnection;
- provides specific notice requirements related to a municipality's or a county's proposed modification to the text of the municipality's or the county's zoning code;
- modifies notice requirements related to an amendment to public improvements in a subdivision or development;
- removes a prohibition on imposing a land use regulation under certain circumstances;
- modifies the authority of a municipality or a county to require the development of moderate income housing as a condition of approval of a land use regulation;
- modifies evidence requirements related to a noncomplying structure or a

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nonconforming use;

- authorizes a municipality or a county to determine if combining lots constitutes a subdivision amendment;
- modifies the requirements for preparation of a subdivided plat by a surveyor;
- modifies provisions related to determining when a land use decision is illegal;
- creates a process to establish an agreed boundary between landowners when a boundary is disputed or uncertain; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-2-407, as last amended by Laws of Utah 2021, First Special Session, Chapter 15

10-2-501, as last amended by Laws of Utah 2021, Chapters 84 and 345

10-9a-103, as last amended by Laws of Utah 2021, Chapters 140 and 385

10-9a-205, as last amended by Laws of Utah 2021, Chapters 84, 345, and 355

10-9a-212, as enacted by Laws of Utah 2012, Chapter 216

10-9a-509, as last amended by Laws of Utah 2021, Chapters 140 and 385

10-9a-511, as last amended by Laws of Utah 2018, Chapter 239

10-9a-601, as last amended by Laws of Utah 2021, Chapter 385

10-9a-603, as last amended by Laws of Utah 2021, Chapters 47, 162, and 345

10-9a-608, as last amended by Laws of Utah 2021, Chapter 385

10-9a-801, as last amended by Laws of Utah 2021, Chapter 385

17-27a-205, as last amended by Laws of Utah 2021, Chapters 84, 345, and 355

17-27a-212, as enacted by Laws of Utah 2012, Chapter 216

17-27a-508, as last amended by Laws of Utah 2021, Chapters 140 and 385

17-27a-510, as last amended by Laws of Utah 2018, Chapter 239

17-27a-601, as last amended by Laws of Utah 2021, Chapter 385

17-27a-603, as last amended by Laws of Utah 2021, Chapters 47, 162, and 345

17-27a-608, as last amended by Laws of Utah 2021, Chapter 385

17-27a-801, as last amended by Laws of Utah 2021, Chapter 385

57-1-45, as last amended by Laws of Utah 2021, Chapter 385

ENACTS:

10-9A-535, Utah Code Annotated 1953

17-27a-531, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **10-2-407** is amended to read:

10-2-407. Protest to annexation petition -- Planning advisory area planning commission recommendation -- Petition requirements -- Disposition of petition if no protest filed.

(1) A protest to an annexation petition under Section 10-2-403 may only be filed by:

(a) the legislative body or governing board of an affected entity;

(b) an owner of rural real property;

(c) for a proposed annexation of an area within a county of the first class, an owner of private real property that:

(i) is located in the unincorporated area within 1/2 mile of the area proposed for annexation;

(ii) covers at least 25% of the private land area located in the unincorporated area within 1/2 mile of the area proposed for annexation; and

(iii) is equal in value to at least 15% of all real property located in the unincorporated area within 1/2 mile of the area proposed for annexation; or

(d) an owner of private real property located in a mining protection area.

(2) Each protest under Subsection (1) shall:

(a) be filed:

(i) no later than 30 days after the municipal legislative body's receipt of the notice of certification under Subsection 10-2-405(2)(c)(i); and

(ii) (A) in a county that has already created a commission under Section 10-2-409, with the commission; or

(B) in a county that has not yet created a commission under Section 10-2-409, with the

clerk of the county in which the area proposed for annexation is located;

(b) state each reason for the protest of the annexation petition and, if the area proposed to be annexed is located in a specified county, justification for the protest under the standards established in this chapter;

(c) if the area proposed to be annexed is located in a specified county, contain other information that the commission by rule requires or that the party filing the protest considers pertinent; and

(d) contain the name and address of a contact person who is to receive notices sent by the commission with respect to the protest proceedings.

(3) The party filing a protest under this section shall on the same date deliver or mail a copy of the protest to the city recorder or town clerk of the proposed annexing municipality.

(4) Each clerk who receives a protest under Subsection (2)(a)(ii)(B) shall:

(a) immediately notify the county legislative body of the protest; and

(b) deliver the protest to the boundary commission within five days after:

(i) receipt of the protest, if the boundary commission has previously been created; or

(ii) creation of the boundary commission under Subsection 10-2-409(1)(b), if the boundary commission has not previously been created.

(5) (a) If a protest is filed under this section:

(i) the municipal legislative body may, at its next regular meeting after expiration of the deadline under Subsection (2)(a)(i), deny the annexation petition; or

(ii) if the municipal legislative body does not deny the annexation petition under Subsection (5)(a)(i), the municipal legislative body may take no further action on the annexation petition until after receipt of the commission's notice of its decision on the protest under Section 10-2-416.

(b) If a municipal legislative body denies an annexation petition under Subsection (5)(a)(i), the municipal legislative body shall, within five days after the denial, send notice of the denial in writing to:

(i) the contact sponsor of the annexation petition;

(ii) the commission; and

(iii) each entity that filed a protest.

(6) If no timely protest is filed under this section, the municipal legislative body may,

subject to Subsection (7), approve the petition.

(7) Before approving an annexation petition under Subsection (6), the municipal legislative body shall hold a public hearing and provide notice of the public hearing:

(a) (i) at least seven days before the day of the public hearing, by posting one notice, and at least one additional notice per 2,000 population within the municipality and the area proposed for annexation, in places within that combined area that are most likely to give notice to the residents within, and the owners of real property located within, the combined area, subject to a maximum of 10 notices; or

(ii) at least 10 days before the day of the public hearing, by mailing the notice to each residence within, and to each owner of real property located within, the combined area described in Subsection (7)(a)(i);

(b) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for seven days before the day of the public hearing; and

(c) if the municipality has a website, by posting notice on the municipality's website for seven days before the day of the public hearing.

(8) (a) Subject to Subsection (8)(b), only a person or entity that is described in Subsection (1) has standing to challenge an annexation in district court.

(b) A person or entity described in Subsection (1) may only bring an action in district court to challenge an annexation if the person or entity has timely filed a protest as described in Subsection (2) and exhausted the administrative remedies described in this section.

Section 2. Section **10-2-501** is amended to read:

10-2-501. Municipal disconnection -- Definitions -- Request for disconnection -- Requirements upon filing request.

(1) As used in this part "petitioner" means:

(a) one or more persons who:

(i) own title to real property within the area proposed for disconnection; and

(ii) sign a request for disconnection proposing to disconnect the area proposed for disconnection from the municipality; or

(b) the mayor of the municipality within which the area proposed for disconnection is located who signs a request for disconnection proposing to disconnect the area proposed for disconnection from the municipality.

(2) (a) A petitioner proposing to disconnect an area within and lying on the borders of a municipality shall file with that municipality's legislative body a request for disconnection.

(b) Each request for disconnection shall:

(i) contain the names, addresses, and signatures of the owners of more than 50% of any private real property in the area proposed for disconnection;

(ii) give the reasons for the proposed disconnection;

(iii) include a map or plat of the territory proposed for disconnection; and

(iv) designate between one and five persons with authority to act on the petitioner's behalf in the proceedings.

(3) Upon filing the request for disconnection, the petitioner shall publish notice of the request:

(a) (i) once a week for three consecutive weeks before the public hearing described in Section 10-2-502.5 in a newspaper of general circulation within the municipality; or

(ii) if there is no newspaper of general circulation in the municipality, at least three weeks before the day of the public hearing described in Section 10-2-502.5, by posting one notice, and at least one additional notice per 2,000 population of the municipality, in places within the municipality that are most likely to give notice to the residents within, and the owners of real property located within, the municipality, including the residents who live in the area proposed for disconnection; [~~or~~]

[~~(iii) at least three weeks before the day of the public hearing described in Section 10-2-502.5, by mailing notice to each residence within, and each owner of real property located within, the municipality;~~]

(b) on the Utah Public Notice Website created in Section 63A-16-601, for three weeks before the day of the public hearing described in Section 10-2-502.5;

(c) in accordance with the legal notice requirements described in Section 45-1-101, for three weeks before the day of the public hearing described in Section 10-2-502.5;

(d) by mailing notice to each:

(i) owner of real property located within the area proposed to be disconnected; and

(ii) residence within the area proposed to be disconnected;

(e) by delivering a copy of the request to the legislative body of the county in which the area proposed for disconnection is located; and

(f) if the municipality has a website, on the municipality's website for three weeks before the day of the public hearing.

Section 3. Section **10-9a-103** is amended to read:

10-9a-103. Definitions.

As used in this chapter:

(1) "Accessory dwelling unit" means a habitable living unit added to, created within, or detached from a primary single-family dwelling and contained on one lot.

(2) "Adversely affected party" means a person other than a land use applicant who:

(a) owns real property adjoining the property that is the subject of a land use application or land use decision; or

(b) will suffer a damage different in kind than, or an injury distinct from, that of the general community as a result of the land use decision.

(3) "Affected entity" means a county, municipality, local district, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified public utility, property owner, property owners association, or the Utah Department of Transportation, if:

(a) the entity's services or facilities are likely to require expansion or significant modification because of an intended use of land;

(b) the entity has filed with the municipality a copy of the entity's general or long-range plan; or

(c) the entity has filed with the municipality a request for notice during the same calendar year and before the municipality provides notice to an affected entity in compliance with a requirement imposed under this chapter.

(4) "Affected owner" means the owner of real property that is:

(a) a single project;

(b) the subject of a land use approval that sponsors of a referendum timely challenged in accordance with Subsection 20A-7-601(5); and

(c) determined to be legally referable under Section 20A-7-602.8.

(5) "Appeal authority" means the person, board, commission, agency, or other body designated by ordinance to decide an appeal of a decision of a land use application or a

variance.

(6) "Billboard" means a freestanding ground sign located on industrial, commercial, or residential property if the sign is designed or intended to direct attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located.

(7) (a) "Charter school" means:

(i) an operating charter school;

(ii) a charter school applicant that a charter school authorizer approves in accordance with Title 53G, Chapter 5, Part 3, Charter School Authorization; or

(iii) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

(b) "Charter school" does not include a therapeutic school.

(8) "Conditional use" means a land use that, because of the unique characteristics or potential impact of the land use on the municipality, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

(9) "Constitutional taking" means a governmental action that results in a taking of private property so that compensation to the owner of the property is required by the:

(a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

(b) Utah Constitution Article I, Section 22.

(10) "Culinary water authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of the culinary water system and sources for the subject property.

(11) "Development activity" means:

(a) any construction or expansion of a building, structure, or use that creates additional demand and need for public facilities;

(b) any change in use of a building or structure that creates additional demand and need for public facilities; or

(c) any change in the use of land that creates additional demand and need for public facilities.

(12) (a) "Development agreement" means a written agreement or amendment to a written agreement between a municipality and one or more parties that regulates or controls the

use or development of a specific area of land.

(b) "Development agreement" does not include an improvement completion assurance.

(13) (a) "Disability" means a physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such an impairment or being regarded as having such an impairment.

(b) "Disability" does not include current illegal use of, or addiction to, any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802.

(14) "Educational facility":

(a) means:

(i) a school district's building at which pupils assemble to receive instruction in a program for any combination of grades from preschool through grade 12, including kindergarten and a program for children with disabilities;

(ii) a structure or facility:

(A) located on the same property as a building described in Subsection (14)(a)(i); and

(B) used in support of the use of that building; and

(iii) a building to provide office and related space to a school district's administrative personnel; and

(b) does not include:

(i) land or a structure, including land or a structure for inventory storage, equipment storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:

(A) not located on the same property as a building described in Subsection (14)(a)(i); and

(B) used in support of the purposes of a building described in Subsection (14)(a)(i); or

(ii) a therapeutic school.

(15) "Fire authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of fire protection and suppression services for the subject property.

(16) "Flood plain" means land that:

(a) is within the 100-year flood plain designated by the Federal Emergency Management Agency; or

(b) has not been studied or designated by the Federal Emergency Management Agency but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because the land has characteristics that are similar to those of a 100-year flood plain designated by the Federal Emergency Management Agency.

(17) "General plan" means a document that a municipality adopts that sets forth general guidelines for proposed future development of the land within the municipality.

(18) "Geologic hazard" means:

(a) a surface fault rupture;

(b) shallow groundwater;

(c) liquefaction;

(d) a landslide;

(e) a debris flow;

(f) unstable soil;

(g) a rock fall; or

(h) any other geologic condition that presents a risk:

(i) to life;

(ii) of substantial loss of real property; or

(iii) of substantial damage to real property.

(19) "Historic preservation authority" means a person, board, commission, or other body designated by a legislative body to:

(a) recommend land use regulations to preserve local historic districts or areas; and

(b) administer local historic preservation land use regulations within a local historic district or area.

(20) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter, or appurtenance that connects to a municipal water, sewer, storm water, power, or other utility system.

(21) "Identical plans" means building plans submitted to a municipality that:

(a) are clearly marked as "identical plans";

(b) are substantially identical to building plans that were previously submitted to and reviewed and approved by the municipality; and

(c) describe a building that:

(i) is located on land zoned the same as the land on which the building described in the previously approved plans is located;

(ii) is subject to the same geological and meteorological conditions and the same law as the building described in the previously approved plans;

(iii) has a floor plan identical to the building plan previously submitted to and reviewed and approved by the municipality; and

(iv) does not require any additional engineering or analysis.

(22) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a, Impact Fees Act.

(23) "Improvement completion assurance" means a surety bond, letter of credit, financial institution bond, cash, assignment of rights, lien, or other equivalent security required by a municipality to guaranty the proper completion of landscaping or an infrastructure improvement required as a condition precedent to:

(a) recording a subdivision plat; or

(b) development of a commercial, industrial, mixed use, or multifamily project.

(24) "Improvement warranty" means an applicant's unconditional warranty that the applicant's installed and accepted landscaping or infrastructure improvement:

(a) complies with the municipality's written standards for design, materials, and workmanship; and

(b) will not fail in any material respect, as a result of poor workmanship or materials, within the improvement warranty period.

(25) "Improvement warranty period" means a period:

(a) no later than one year after a municipality's acceptance of required landscaping; or

(b) no later than one year after a municipality's acceptance of required infrastructure, unless the municipality:

(i) determines for good cause that a one-year period would be inadequate to protect the public health, safety, and welfare; and

(ii) has substantial evidence, on record:

(A) of prior poor performance by the applicant; or

(B) that the area upon which the infrastructure will be constructed contains suspect soil and the municipality has not otherwise required the applicant to mitigate the suspect soil.

(26) "Infrastructure improvement" means permanent infrastructure that is essential for the public health and safety or that:

(a) is required for human occupation; and

(b) an applicant must install:

(i) in accordance with published installation and inspection specifications for public improvements; and

(ii) whether the improvement is public or private, as a condition of:

(A) recording a subdivision plat;

(B) obtaining a building permit; or

(C) development of a commercial, industrial, mixed use, condominium, or multifamily project.

(27) "Internal lot restriction" means a platted note, platted demarcation, or platted designation that:

(a) runs with the land; and

(b) (i) creates a restriction that is enclosed within the perimeter of a lot described on the plat; or

(ii) designates a development condition that is enclosed within the perimeter of a lot described on the plat.

(28) "Land use applicant" means a property owner, or the property owner's designee, who submits a land use application regarding the property owner's land.

(29) "Land use application":

(a) means an application that is:

(i) required by a municipality; and

(ii) submitted by a land use applicant to obtain a land use decision; and

(b) does not mean an application to enact, amend, or repeal a land use regulation.

(30) "Land use authority" means:

(a) a person, board, commission, agency, or body, including the local legislative body, designated by the local legislative body to act upon a land use application; or

(b) if the local legislative body has not designated a person, board, commission, agency, or body, the local legislative body.

(31) "Land use decision" means an administrative decision of a land use authority or

appeal authority regarding:

(a) a land use permit; or

(b) a land use application[~~; or~~].

[~~(c) the enforcement of a land use regulation, land use permit, or development agreement.~~]

(32) "Land use permit" means a permit issued by a land use authority.

(33) "Land use regulation":

(a) means a legislative decision enacted by ordinance, law, code, map, resolution, specification, fee, or rule that governs the use or development of land;

(b) includes the adoption or amendment of a zoning map or the text of the zoning code; and

(c) does not include:

(i) a land use decision of the legislative body acting as the land use authority, even if the decision is expressed in a resolution or ordinance; or

(ii) a temporary revision to an engineering specification that does not materially:

(A) increase a land use applicant's cost of development compared to the existing specification; or

(B) impact a land use applicant's use of land.

(34) "Legislative body" means the municipal council.

(35) "Local district" means an entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or the state.

(36) "Local historic district or area" means a geographically definable area that:

(a) contains any combination of buildings, structures, sites, objects, landscape features, archeological sites, or works of art that contribute to the historic preservation goals of a legislative body; and

(b) is subject to land use regulations to preserve the historic significance of the local historic district or area.

(37) "Lot" means a tract of land, regardless of any label, that is created by and shown on a subdivision plat that has been recorded in the office of the county recorder.

(38) (a) "Lot line adjustment" means a relocation of a lot line boundary between

adjoining lots or between a lot and adjoining parcels in accordance with Section 10-9a-608:

(i) whether or not the lots are located in the same subdivision; and

(ii) with the consent of the owners of record.

(b) "Lot line adjustment" does not mean a new boundary line that:

(i) creates an additional lot; or

(ii) constitutes a subdivision.

(c) "Lot line adjustment" does not include a boundary line adjustment made by the Department of Transportation.

(39) "Major transit investment corridor" means public transit service that uses or occupies:

(a) public transit rail right-of-way;

(b) dedicated road right-of-way for the use of public transit, such as bus rapid transit; or

(c) fixed-route bus corridors subject to an interlocal agreement or contract between a municipality or county and:

(i) a public transit district as defined in Section 17B-2a-802; or

(ii) an eligible political subdivision as defined in Section 59-12-2219.

(40) "Moderate income housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the city is located.

(41) "Municipal utility easement" means an easement that:

(a) is created or depicted on a plat recorded in a county recorder's office and is described as a municipal utility easement granted for public use;

(b) is not a protected utility easement or a public utility easement as defined in Section 54-3-27;

(c) the municipality or the municipality's affiliated governmental entity uses and occupies to provide a utility service, including sanitary sewer, culinary water, electrical, storm water, or communications or data lines;

(d) is used or occupied with the consent of the municipality in accordance with an authorized franchise or other agreement;

(e) (i) is used or occupied by a specified public utility in accordance with an authorized

franchise or other agreement; and

(ii) is located in a utility easement granted for public use; or

(f) is described in Section 10-9a-529 and is used by a specified public utility.

(42) "Nominal fee" means a fee that reasonably reimburses a municipality only for time spent and expenses incurred in:

(a) verifying that building plans are identical plans; and

(b) reviewing and approving those minor aspects of identical plans that differ from the previously reviewed and approved building plans.

(43) "Noncomplying structure" means a structure that:

(a) legally existed before the structure's current land use designation; and

(b) because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations, which govern the use of land.

(44) "Nonconforming use" means a use of land that:

(a) legally existed before its current land use designation;

(b) has been maintained continuously since the time the land use ordinance governing the land changed; and

(c) because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.

(45) "Official map" means a map drawn by municipal authorities and recorded in a county recorder's office that:

(a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;

(b) provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and

(c) has been adopted as an element of the municipality's general plan.

(46) "Parcel" means any real property that is not a lot.

(47) (a) "Parcel boundary adjustment" means a recorded agreement between owners of adjoining parcels adjusting the mutual boundary, either by deed or by a boundary line agreement in accordance with Section 10-9a-524, if no additional parcel is created and:

(i) none of the property identified in the agreement is a lot; or

(ii) the adjustment is to the boundaries of a single person's parcels.

(b) "Parcel boundary adjustment" does not mean an adjustment of a parcel boundary line that:

(i) creates an additional parcel; or

(ii) constitutes a subdivision.

(c) "Parcel boundary adjustment" does not include a boundary line adjustment made by the Department of Transportation.

(48) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

(49) "Plan for moderate income housing" means a written document adopted by a municipality's legislative body that includes:

(a) an estimate of the existing supply of moderate income housing located within the municipality;

(b) an estimate of the need for moderate income housing in the municipality for the next five years;

(c) a survey of total residential land use;

(d) an evaluation of how existing land uses and zones affect opportunities for moderate income housing; and

(e) a description of the municipality's program to encourage an adequate supply of moderate income housing.

(50) "Plat" means an instrument subdividing property into lots as depicted on a map or other graphical representation of lands that a licensed professional land surveyor makes and prepares in accordance with Section 10-9a-603 or 57-8-13.

(51) "Potential geologic hazard area" means an area that:

(a) is designated by a Utah Geological Survey map, county geologist map, or other relevant map or report as needing further study to determine the area's potential for geologic hazard; or

(b) has not been studied by the Utah Geological Survey or a county geologist but presents the potential of geologic hazard because the area has characteristics similar to those of a designated geologic hazard area.

(52) "Public agency" means:

(a) the federal government;

(b) the state;

(c) a county, municipality, school district, local district, special service district, or other political subdivision of the state; or

(d) a charter school.

(53) "Public hearing" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

(54) "Public meeting" means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act.

(55) "Public street" means a public right-of-way, including a public highway, public avenue, public boulevard, public parkway, public road, public lane, public alley, public viaduct, public subway, public tunnel, public bridge, public byway, other public transportation easement, or other public way.

(56) "Receiving zone" means an area of a municipality that the municipality designates, by ordinance, as an area in which an owner of land may receive a transferable development right.

(57) "Record of survey map" means a map of a survey of land prepared in accordance with Section 10-9a-603, 17-23-17, 17-27a-603, or 57-8-13.

(58) "Residential facility for persons with a disability" means a residence:

(a) in which more than one person with a disability resides; and

(b) (i) which is licensed or certified by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities; or

(ii) which is licensed or certified by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

(59) "Rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:

(a) parliamentary order and procedure;

(b) ethical behavior; and

(c) civil discourse.

(60) "Sanitary sewer authority" means the department, agency, or public entity with

responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.

(61) "Sending zone" means an area of a municipality that the municipality designates, by ordinance, as an area from which an owner of land may transfer a transferable development right.

(62) "Specified public agency" means:

(a) the state;

(b) a school district; or

(c) a charter school.

(63) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

(64) "State" includes any department, division, or agency of the state.

(65) (a) "Subdivision" means any land that is divided, resubdivided, or proposed to be divided into two or more lots or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

(b) "Subdivision" includes:

(i) the division or development of land, whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument, regardless of whether the division includes all or a portion of a parcel or lot; and

(ii) except as provided in Subsection (65)(c), divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

(c) "Subdivision" does not include:

(i) a bona fide division or partition of agricultural land for the purpose of joining one of the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if neither the resulting combined parcel nor the parcel remaining from the division or partition violates an applicable land use ordinance;

(ii) a boundary line agreement recorded with the county recorder's office between owners of adjoining parcels adjusting the mutual boundary in accordance with Section 10-9a-524 if no new parcel is created;

(iii) a recorded document, executed by the owner of record:

(A) revising the legal descriptions of multiple parcels into one legal description encompassing all such parcels; or

(B) joining a lot to a parcel;

(iv) a boundary line agreement between owners of adjoining subdivided properties adjusting the mutual lot line boundary in accordance with Sections 10-9a-524 and 10-9a-608 if:

(A) no new dwelling lot or housing unit will result from the adjustment; and

(B) the adjustment will not violate any applicable land use ordinance;

(v) a bona fide division of land by deed or other instrument if the deed or other instrument states in writing that the division:

(A) is in anticipation of future land use approvals on the parcel or parcels;

(B) does not confer any land use approvals; and

(C) has not been approved by the land use authority;

(vi) a parcel boundary adjustment;

(vii) a lot line adjustment;

(viii) a road, street, or highway dedication plat;

(ix) a deed or easement for a road, street, or highway purpose; or

(x) any other division of land authorized by law.

(66) "Subdivision amendment" means an amendment to a recorded subdivision in accordance with Section 10-9a-608 that:

(a) vacates all or a portion of the subdivision;

(b) alters the outside boundary of the subdivision;

(c) changes the number of lots within the subdivision;

(d) alters a public right-of-way, a public easement, or public infrastructure within the subdivision; or

(e) alters a common area or other common amenity within the subdivision.

(67) "Substantial evidence" means evidence that:

(a) is beyond a scintilla; and

(b) a reasonable mind would accept as adequate to support a conclusion.

(68) "Suspect soil" means soil that has:

(a) a high susceptibility for volumetric change, typically clay rich, having more than a

3% swell potential;

(b) bedrock units with high shrink or swell susceptibility; or

(c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum commonly associated with dissolution and collapse features.

(69) "Therapeutic school" means a residential group living facility:

(a) for four or more individuals who are not related to:

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

(b) that serves students who have a history of failing to function:

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

(B) services or treatment related to a disability, an emotional development, a behavioral development, a familial development, or a social development.

(70) "Transferable development right" means a right to develop and use land that originates by an ordinance that authorizes a land owner in a designated sending zone to transfer land use rights from a designated sending zone to a designated receiving zone.

(71) "Unincorporated" means the area outside of the incorporated area of a city or town.

(72) "Water interest" means any right to the beneficial use of water, including:

(a) each of the rights listed in Section 73-1-11; and

(b) an ownership interest in the right to the beneficial use of water represented by:

(i) a contract; or

(ii) a share in a water company, as defined in Section 73-3-3.5.

(73) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.

Section 4. Section **10-9a-205** is amended to read:

10-9a-205. Notice of public hearings and public meetings on adoption or modification of land use regulation.

(1) Each municipality shall give:

(a) notice of the date, time, and place of the first public hearing to consider the adoption or any modification of a land use regulation; and

(b) notice of each public meeting on the subject.

(2) Each notice of a public hearing under Subsection (1)(a) shall be:

(a) mailed to each affected entity at least 10 calendar days before the public hearing;

(b) posted:

(i) in at least three public locations within the municipality; or

(ii) on the municipality's official website; and

(c) (i) posted on the Utah Public Notice Website created in Section 63A-16-601, at least 10 calendar days before the public hearing; or

(ii) mailed at least 10 days before the public hearing to:

(A) each property owner whose land is directly affected by the land use ordinance change; and

(B) each adjacent property owner within the parameters specified by municipal ordinance.

(3) In addition to the notice requirements described in Subsections (1) and (2), for any proposed modification to the text of a zoning code, the notice posted in accordance with Subsection (2) shall:

(a) include a summary of the effect of the proposed modifications to the text of the zoning code designed to be understood by a lay person; and

(b) be provided to any person upon written request.

[~~(3)~~] (4) Each notice of a public meeting under Subsection (1)(b) shall be posted at least 24 hours before the meeting:

(a) in at least three public locations within the municipality; or

(b) on the municipality's official website.

[~~(4)~~] (5) (a) A municipality shall send a courtesy notice to each owner of private real property whose property is located entirely or partially within a proposed zoning map enactment or amendment at least 10 days before the scheduled day of the public hearing.

(b) The notice shall:

(i) identify with specificity each owner of record of real property that will be affected by the proposed zoning map or map amendments;

(ii) state the current zone in which the real property is located;

(iii) state the proposed new zone for the real property;

(iv) provide information regarding or a reference to the proposed regulations, prohibitions, and permitted uses that the property will be subject to if the zoning map or map amendment is adopted;

(v) state that the owner of real property may no later than 10 days after the day of the first public hearing file a written objection to the inclusion of the owner's property in the proposed zoning map or map amendment;

(vi) state the address where the property owner should file the protest;

(vii) notify the property owner that each written objection filed with the municipality will be provided to the municipal legislative body; and

(viii) state the location, date, and time of the public hearing described in Section 10-9a-502.

(c) If a municipality mails notice to a property owner in accordance with Subsection (2)(c)(ii) for a public hearing on a zoning map or map amendment, the notice required in this Subsection [~~(4)~~] (5) may be included in or part of the notice described in Subsection (2)(c)(ii) rather than sent separately.

Section 5. Section **10-9a-212** is amended to read:

10-9a-212. Notice for an amendment to public improvements in a subdivision or development.

[~~Prior to~~] Before implementing an amendment to adopted specifications for public improvements that apply to a subdivision or a development, a municipality shall [~~give 30 days mailed notice and an opportunity to comment to anyone who has requested the notice in writing.~~]:

(1) hold a public hearing;

(2) mail a notice 30 days or more before the date of the public hearing to:

(a) each person who has submitted a land use application for which the land use authority has not issued a land use decision; and

(b) each person who makes a written request to receive a copy of the notice; and

(3) allow each person who receives a notice in accordance with Subsection (2) to provide public comment in writing before the public hearing or in person during the public hearing.

Section 6. Section **10-9a-509** is amended to read:

10-9a-509. Applicant's entitlement to land use application approval -- Municipality's requirements and limitations -- Vesting upon submission of development plan and schedule.

(1) (a) (i) An applicant who has submitted a complete land use application as described in Subsection (1)(c), including the payment of all application fees, is entitled to substantive review of the application under the land use regulations:

(A) in effect on the date that the application is complete; and

(B) applicable to the application or to the information shown on the application.

(ii) An applicant is entitled to approval of a land use application if the application conforms to the requirements of the applicable land use regulations, land use decisions, and development standards in effect when the applicant submits a complete application and pays application fees, unless:

(A) the land use authority, on the record, formally finds that a compelling, countervailing public interest would be jeopardized by approving the application and specifies the compelling, countervailing public interest in writing; or

(B) in the manner provided by local ordinance and before the applicant submits the application, the municipality formally initiates proceedings to amend the municipality's land use regulations in a manner that would prohibit approval of the application as submitted.

(b) The municipality shall process an application without regard to proceedings the municipality initiated to amend the municipality's ordinances as described in Subsection (1)(a)(ii)(B) if:

(i) 180 days have passed since the municipality initiated the proceedings; and

(ii) the proceedings have not resulted in an enactment that prohibits approval of the application as submitted.

(c) A land use application is considered submitted and complete when the applicant provides the application in a form that complies with the requirements of applicable ordinances

and pays all applicable fees.

(d) A subsequent incorporation of a municipality or a petition that proposes the incorporation of a municipality does not affect a land use application approved by a county in accordance with Section 17-27a-508.

(e) The continuing validity of an approval of a land use application is conditioned upon the applicant proceeding after approval to implement the approval with reasonable diligence.

(f) A municipality may not impose on an applicant who has submitted a complete application a requirement that is not expressed in:

(i) this chapter;

(ii) a municipal ordinance; or

(iii) a municipal specification for public improvements applicable to a subdivision or development that is in effect on the date that the applicant submits an application.

(g) A municipality may not impose on a holder of an issued land use permit or a final, unexpired subdivision plat a requirement that is not expressed:

(i) in a land use permit;

(ii) on the subdivision plat;

(iii) in a document on which the land use permit or subdivision plat is based;

(iv) in the written record evidencing approval of the land use permit or subdivision plat;

(v) in this chapter; or

(vi) in a municipal ordinance.

(h) Except as provided in Subsection (1)(i), a municipality may not withhold issuance of a certificate of occupancy or acceptance of subdivision improvements because of an applicant's failure to comply with a requirement that is not expressed:

(i) in the building permit or subdivision plat, documents on which the building permit or subdivision plat is based, or the written record evidencing approval of the land use permit or subdivision plat; or

(ii) in this chapter or the municipality's ordinances.

(i) A municipality may not unreasonably withhold issuance of a certificate of occupancy where an applicant has met all requirements essential for the public health, public safety, and general welfare of the occupants, in accordance with this chapter, unless:

(i) the applicant and the municipality have agreed in a written document to the withholding of a certificate of occupancy; or

(ii) the applicant has not provided a financial assurance for required and uncompleted landscaping or infrastructure improvements in accordance with an applicable ordinance that the legislative body adopts under this chapter.

(2) A municipality is bound by the terms and standards of applicable land use regulations and shall comply with mandatory provisions of those regulations.

(3) A municipality may not, as a condition of land use application approval, require a person filing a land use application to obtain documentation regarding a school district's willingness, capacity, or ability to serve the development proposed in the land use application.

[~~(4) (a) Except as provided in Subsection (4)(b), for a period of 10 years after the day on which a subdivision plat is recorded, a municipality may not impose on a building permit applicant for a single-family dwelling located within the subdivision any land use regulation that is enacted within 10 years after the day on which the subdivision plat is recorded.~~]

[~~(b) Subsection (4)(a) does not apply to any changes in the requirements of the applicable building code, health code, or fire code, or other similar regulations.~~]

[~~(5)~~] (4) Upon a specified public agency's submission of a development plan and schedule as required in Subsection 10-9a-305(8) that complies with the requirements of that subsection, the specified public agency vests in the municipality's applicable land use maps, zoning map, hookup fees, impact fees, other applicable development fees, and land use regulations in effect on the date of submission.

[~~(6)~~] (5) (a) If sponsors of a referendum timely challenge a project in accordance with Subsection 20A-7-601(5), the project's affected owner may rescind the project's land use approval by delivering a written notice:

(i) to the local clerk as defined in Section 20A-7-101; and

(ii) no later than seven days after the day on which a petition for a referendum is determined sufficient under Subsection 20A-7-607(4).

(b) Upon delivery of a written notice described in Subsection [~~(6)~~] (5)(a) the following are rescinded and are of no further force or effect:

(i) the relevant land use approval; and

(ii) any land use regulation enacted specifically in relation to the land use approval.

Section 7. Section **10-9a-511** is amended to read:

10-9a-511. Nonconforming uses and noncomplying structures.

(1) (a) Except as provided in this section, a nonconforming use or noncomplying structure may be continued by the present or a future property owner.

(b) A nonconforming use may be extended through the same building, provided no structural alteration of the building is proposed or made for the purpose of the extension.

(c) For purposes of this Subsection (1), the addition of a solar energy device to a building is not a structural alteration.

(2) The legislative body may provide for:

(a) the establishment, restoration, reconstruction, extension, alteration, expansion, or substitution of nonconforming uses upon the terms and conditions set forth in the land use ordinance;

(b) the termination of all nonconforming uses, except billboards, by providing a formula establishing a reasonable time period during which the owner can recover or amortize the amount of his investment in the nonconforming use, if any; and

(c) the termination of a nonconforming use due to its abandonment.

(3) (a) A municipality may not prohibit the reconstruction or restoration of a noncomplying structure or terminate the nonconforming use of a structure that is involuntarily destroyed in whole or in part due to fire or other calamity unless the structure or use has been abandoned.

(b) A municipality may prohibit the reconstruction or restoration of a noncomplying structure or terminate the nonconforming use of a structure if:

(i) the structure is allowed to deteriorate to a condition that the structure is rendered uninhabitable and is not repaired or restored within six months after the day on which written notice is served to the property owner that the structure is uninhabitable and that the noncomplying structure or nonconforming use will be lost if the structure is not repaired or restored within six months; or

(ii) the property owner has voluntarily demolished a majority of the noncomplying structure or the building that houses the nonconforming use.

(c) (i) Notwithstanding a prohibition in the municipality's zoning ordinance, a municipality may permit a billboard owner to relocate the billboard within the municipality's

boundaries to a location that is mutually acceptable to the municipality and the billboard owner.

(ii) If the municipality and billboard owner cannot agree to a mutually acceptable location within 180 days after the day on which the owner submits a written request to relocate the billboard, the billboard owner may relocate the billboard in accordance with Subsection 10-9a-513(2).

(4) (a) Unless the municipality establishes, by ordinance, a uniform presumption of legal existence for nonconforming uses, the property owner shall have the burden of establishing the legal existence of a noncomplying structure or nonconforming use through substantial evidence, which may not be limited to municipal or county records.

(b) Any party claiming that a nonconforming use has been abandoned shall have the burden of establishing the abandonment.

(c) Abandonment may be presumed to have occurred if:

(i) a majority of the primary structure associated with the nonconforming use has been voluntarily demolished without prior written agreement with the municipality regarding an extension of the nonconforming use;

(ii) the use has been discontinued for a minimum of one year; or

(iii) the primary structure associated with the nonconforming use remains vacant for a period of one year.

(d) The property owner may rebut the presumption of abandonment under Subsection (4)(c), and has the burden of establishing that any claimed abandonment under Subsection (4)(b) has not occurred.

(5) A municipality may terminate the nonconforming status of a school district or charter school use or structure when the property associated with the school district or charter school use or structure ceases to be used for school district or charter school purposes for a period established by ordinance.

Section 8. Section **10-9a-535** is enacted to read:

10-9a-535. Moderate income housing.

(1) A municipality may only require the development of a certain number of moderate income housing units as a condition of approval of a land use application if:

(a) the municipality and the applicant enter into a written agreement regarding the

number of moderate income housing units; or

(b) the municipality provides incentives for an applicant who agrees to include moderate income housing units in a development.

(2) If an applicant does not agree to participate in the development of moderate income housing units under Subsection (1)(a) or (b), a municipality may not take into consideration the applicant's decision in the municipality's determination of whether to approve or deny a land use application.

(3) Notwithstanding Subsections (1) and (2), a municipality that imposes a resort community sales and use tax as described in Section 59-12-401, may require the development of a certain number of moderate income housing units as a condition of approval of a land use application if the requirement is in accordance with an ordinance enacted by the municipality before January 1, 2022.

Section 9. Section **10-9a-601** is amended to read:

10-9a-601. Enactment of subdivision ordinance.

(1) The legislative body of a municipality may enact ordinances requiring that a subdivision plat comply with the provisions of the municipality's ordinances and this part before:

(a) the subdivision plat may be filed and recorded in the county recorder's office; and

(b) lots may be sold.

(2) If the legislative body fails to enact a subdivision ordinance, the municipality may regulate subdivisions only to the extent provided in this part.

(3) The joining of a lot or lots to a parcel does not constitute a subdivision as to the parcel or subject the parcel to the municipality's subdivision ordinance.

(4) A legislative body may adopt a land use regulation that specifies that combining lots does not require a subdivision plat amendment.

Section 10. Section **10-9a-603** is amended to read:

10-9a-603. Plat required when land is subdivided -- Approval of plat -- Owner acknowledgment, surveyor certification, and underground utility facility owner verification of plat -- Recording plat.

(1) As used in this section:

(a) (i) "Facility owner" means the same as that term is defined in Section 73-1-15.5.

(ii) "Facility owner" includes a canal owner or associated canal operator contact described in:

(A) Section 10-9a-211;

(B) Subsection 73-5-7(3); or

(C) Subsection (6)(c).

(b) "Local health department" means the same as that term is defined in Section 26A-1-102.

(c) "State engineer's inventory of canals" means the state engineer's inventory of water conveyance systems established in Section 73-5-7.

(d) "Underground facility" means the same as that term is defined in Section 54-8a-2.

(e) "Water conveyance facility" means the same as that term is defined in Section 73-1-15.5.

(2) Unless exempt under Section 10-9a-605 or excluded from the definition of subdivision under Section 10-9a-103, whenever any land is laid out and platted, the owner of the land shall provide to the municipality in which the land is located an accurate plat that describes or specifies:

(a) a subdivision name that is distinct from any subdivision name on a plat recorded in the county recorder's office;

(b) the boundaries, course, and dimensions of all of the parcels of ground divided, by their boundaries, course, and extent, whether the owner proposes that any parcel of ground is intended to be used as a street or for any other public use, and whether any such area is reserved or proposed for dedication for a public purpose;

(c) the lot or unit reference, block or building reference, street or site address, street name or coordinate address, acreage or square footage for all parcels, units, or lots, and length and width of the blocks and lots intended for sale;

(d) every existing right-of-way and recorded easement located within the plat for:

(i) an underground facility;

(ii) a water conveyance facility; or

(iii) any other utility facility; and

(e) any water conveyance facility located, entirely or partially, within the plat that:

(i) is not recorded; and

(ii) of which the owner of the land has actual or constructive knowledge, including from information made available to the owner of the land:

(A) in the state engineer's inventory of canals; or

(B) from a surveyor under Subsection (6)(c).

(3) (a) Subject to Subsections (4), (6), and (7), if the plat conforms to the municipality's ordinances and this part and has been approved by the culinary water authority, the sanitary sewer authority, and the local health department, if the local health department and the municipality consider the local health department's approval necessary, the municipality shall approve the plat.

(b) Municipalities are encouraged to receive a recommendation from the fire authority and the public safety answering point before approving a plat.

(c) A municipality may not require that a plat be approved or signed by a person or entity who:

(i) is not an employee or agent of the municipality; or

(ii) does not:

(A) have a legal or equitable interest in the property within the proposed subdivision;

(B) provide a utility or other service directly to a lot within the subdivision;

(C) own an easement or right-of-way adjacent to the proposed subdivision who signs for the purpose of confirming the accuracy of the location of the easement or right-of-way in relation to the plat; or

(D) provide culinary public water service whose source protection zone designated as provided in Section 19-4-113 is included, in whole or in part, within the proposed subdivision.

(d) A municipality shall:

(i) within 20 days after the day on which an owner of land submits to the municipality a complete subdivision plat land use application, mail written notice of the proposed subdivision to the facility owner of any water conveyance facility located, entirely or partially, within 100 feet of the subdivision plat, as determined using information made available to the municipality:

(A) from the facility owner under Section 10-9a-211, using mapping-grade global positioning satellite units or digitized data from the most recent aerial photo available to the facility owner;

(B) in the state engineer's inventory of canals; or

(C) from a surveyor under Subsection (6)(c); and

(ii) not approve the subdivision plat for at least 20 days after the day on which the municipality mails to each facility owner the notice described in Subsection (3)(d)(i), in order to receive any comments from each facility owner regarding:

(A) access to the water conveyance facility;

(B) maintenance of the water conveyance facility;

(C) protection of the water conveyance facility;

(D) safety of the water conveyance facility; or

(E) any other issue related to water conveyance facility operations.

(e) When applicable, the owner of the land seeking subdivision plat approval shall comply with Section 73-1-15.5.

(f) A facility owner's failure to provide comments to a municipality in accordance with Subsection (3)(d)(ii) does not affect or impair the municipality's authority to approve the subdivision plat.

(4) The municipality may withhold an otherwise valid plat approval until the owner of the land provides the legislative body with a tax clearance indicating that all taxes, interest, and penalties owing on the land have been paid.

(5) (a) Within 30 days after approving a final plat under this section, a municipality shall submit to the Utah Geospatial Resource Center, created in Section 63A-16-505, for inclusion in the unified statewide 911 emergency service database described in Subsection 63H-7a-304(4)(b):

(i) an electronic copy of the approved final plat; or

(ii) preliminary geospatial data that depict any new streets and situs addresses proposed for construction within the bounds of the approved plat.

(b) If requested by the Utah Geospatial Resource Center, a municipality that approves a final plat under this section shall:

(i) coordinate with the Utah Geospatial Resource Center to validate the information described in Subsection (5)(a); and

(ii) assist the Utah Geospatial Resource Center in creating electronic files that contain the information described in Subsection (5)(a) for inclusion in the unified statewide 911

emergency service database.

(6) (a) A county recorder may not record a plat unless:

(i) prior to recordation, the municipality has approved and signed the plat;

(ii) each owner of record of land described on the plat has signed the owner's dedication as shown on the plat; and

(iii) the signature of each owner described in Subsection (6)(a)(ii) is acknowledged as provided by law.

(b) [~~The surveyor making~~] A surveyor who prepares the plat shall certify that the surveyor:

(i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;

(ii) (A) has completed a survey of the property described on the plat in accordance with Section 17-23-17 and has verified all measurements; [~~and~~] or

(B) has referenced a record of survey map of the existing property boundaries shown on the plat and verified the locations of the boundaries; and

(iii) has placed monuments as represented on the plat.

(c) (i) To the extent possible, the surveyor shall consult with the owner or operator, or a representative designated by the owner or operator, of an existing water conveyance facility located within the proposed subdivision, or an existing or proposed underground facility or utility facility located within the proposed subdivision, to verify the accuracy of the surveyor's depiction of the:

(A) boundary, course, dimensions, and intended use of the public rights-of-way, a public or private easement, or grants of record;

(B) location of the existing water conveyance facility, or the existing or proposed underground facility or utility facility; and

(C) physical restrictions governing the location of the existing or proposed underground facility or utility facility.

(ii) The cooperation of an owner or operator of a water conveyance facility, underground facility, or utility facility under Subsection (6)(c)(i):

(A) indicates only that the plat approximates the location of the existing facilities but does not warrant or verify their precise location; and

(B) does not affect a right that the owner or operator has under Title 54, Chapter 8a, Damage to Underground Utility Facilities, a recorded easement or right-of-way, the law applicable to prescriptive rights, or any other provision of law.

(7) (a) Except as provided in Subsection (6)(c), after the plat has been acknowledged, certified, and approved, the owner of the land seeking to record the plat shall, within the time period and manner designated by ordinance, record the plat in the county recorder's office in the county in which the lands platted and laid out are situated.

(b) A failure to record a plat within the time period designated by ordinance renders the plat voidable by the municipality.

(8) A municipality acting as a land use authority shall approve a condominium plat that complies with the requirements of Section 57-8-13 unless the condominium plat violates a land use regulation of the municipality.

Section 11. Section **10-9a-608** is amended to read:

10-9a-608. Subdivision amendments.

(1) (a) A fee owner of land, as shown on the last county assessment roll, in a subdivision that has been laid out and platted as provided in this part may file a written petition with the land use authority to request a subdivision amendment.

(b) Upon filing a written petition to request a subdivision amendment under Subsection (1)(a), the owner shall prepare and, if approved by the land use authority, record a plat in accordance with Section 10-9a-603 that:

(i) depicts only the portion of the subdivision that is proposed to be amended;

(ii) includes a plat name distinguishing the amended plat from the original plat;

(iii) describes the differences between the amended plat and the original plat; and

(iv) includes references to the original plat.

(c) If a petition is filed under Subsection (1)(a), the land use authority shall provide notice of the petition by mail, email, or other effective means to each affected entity that provides a service to an owner of record of the portion of the plat that is being vacated or amended at least 10 calendar days before the land use authority may approve the petition for a subdivision amendment.

(d) If a petition is filed under Subsection (1)(a), the land use authority shall hold a public hearing within 45 days after the day on which the petition is filed if:

(i) any owner within the plat notifies the municipality of the owner's objection in writing within 10 days of mailed notification; or

(ii) a public hearing is required because all of the owners in the subdivision have not signed the revised plat.

(e) A land use authority may not approve a petition for a subdivision amendment under this section unless the amendment identifies and preserves any easements owned by a culinary water authority and sanitary sewer authority for existing facilities located within the subdivision.

(2) The public hearing requirement of Subsection (1)(d) does not apply and a land use authority may consider at a public meeting an owner's petition for a subdivision amendment if:

(a) the petition seeks to:

(i) join two or more of the petitioner fee owner's contiguous lots;

(ii) subdivide one or more of the petitioning fee owner's lots, if the subdivision will not result in a violation of a land use ordinance or a development condition;

(iii) adjust the lot lines of adjoining lots or between a lot and an adjoining parcel if the fee owners of each of the adjoining properties join in the petition, regardless of whether the properties are located in the same subdivision;

(iv) on a lot owned by the petitioning fee owner, adjust an internal lot restriction imposed by the local political subdivision; or

(v) alter the plat in a manner that does not change existing boundaries or other attributes of lots within the subdivision that are not:

(A) owned by the petitioner; or

(B) designated as a common area; and

(b) notice has been given to adjoining property owners in accordance with any applicable local ordinance.

(3) A petition under Subsection (1)(a) that contains a request to amend a public street or municipal utility easement is also subject to Section 10-9a-609.5.

(4) A petition under Subsection (1)(a) that contains a request to amend an entire plat or a portion of a plat shall include:

(a) the name and address of each owner of record of the land contained in the entire plat or on that portion of the plat described in the petition; and

(b) the signature of each owner described in Subsection (4)(a) who consents to the petition.

(5) (a) The owners of record of adjoining properties where one or more of the properties is a lot may exchange title to portions of those parcels if the exchange of title is approved by the land use authority in accordance with Subsection (5)(b).

(b) The land use authority shall approve an exchange of title under Subsection (5)(a) if the exchange of title will not result in a violation of any land use ordinance.

(c) If an exchange of title is approved under Subsection (5)(b):

(i) a notice of approval shall be recorded in the office of the county recorder which:

(A) is executed by each owner included in the exchange and by the land use authority;

(B) contains an acknowledgment for each party executing the notice in accordance with the provisions of Title 57, Chapter 2a, Recognition of Acknowledgments Act; and

(C) recites the legal descriptions of both the original properties and the properties resulting from the exchange of title; and

(ii) a document of conveyance shall be recorded in the office of the county recorder with an amended plat.

(d) A notice of approval recorded under this Subsection (5) does not act as a conveyance of title to real property and is not required in order to record a document conveying title to real property.

(6) (a) The name of a recorded subdivision may be changed by recording an amended plat making that change, as provided in this section and subject to Subsection (6)(c).

(b) The surveyor preparing the amended plat shall certify that the surveyor:

(i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;

(ii) (A) has completed a survey of the property described on the plat in accordance with Section 17-23-17 and has verified all measurements; [~~and~~] or

(B) has referenced a record of survey map of the existing property boundaries shown on the plat and verified the locations of the boundaries; and

(iii) has placed monuments as represented on the plat.

(c) An owner of land may not submit for recording an amended plat that gives the subdivision described in the amended plat the same name as a subdivision in a plat already

recorded in the county recorder's office.

(d) Except as provided in Subsection (6)(a), the recording of a declaration or other document that purports to change the name of a recorded plat is void.

Section 12. Section **10-9a-801** is amended to read:

10-9a-801. No district court review until administrative remedies exhausted -- Time for filing -- Tolling of time -- Standards governing court review -- Record on review -- Staying of decision.

(1) No person may challenge in district court a land use decision until that person has exhausted the person's administrative remedies as provided in Part 7, Appeal Authority and Variances, if applicable.

(2) (a) Subject to Subsection (1), a land use applicant or adversely affected party may file a petition for review of a land use decision with the district court within 30 days after the decision is final.

(b) (i) The time under Subsection (2)(a) to file a petition is tolled from the date a property owner files a request for arbitration of a constitutional taking issue with the property rights ombudsman under Section 13-43-204 until 30 days after:

(A) the arbitrator issues a final award; or

(B) the property rights ombudsman issues a written statement under Subsection 13-43-204(3)(b) declining to arbitrate or to appoint an arbitrator.

(ii) A tolling under Subsection (2)(b)(i) operates only as to the specific constitutional taking issue that is the subject of the request for arbitration filed with the property rights ombudsman by a property owner.

(iii) A request for arbitration filed with the property rights ombudsman after the time under Subsection (2)(a) to file a petition has expired does not affect the time to file a petition.

(3) (a) A court shall:

(i) presume that a land use regulation properly enacted under the authority of this chapter is valid; and

(ii) determine only whether:

(A) the land use regulation is expressly preempted by, or was enacted contrary to, state or federal law; and

(B) it is reasonably debatable that the land use regulation is consistent with this

chapter.

(b) A court shall[~~: (i)~~] presume that a final land use decision of a land use authority or an appeal authority is valid[~~; and (ii) uphold the land use decision~~] unless the land use decision is:

[~~(A)~~] (i) arbitrary and capricious; or

[~~(B)~~] (ii) illegal.

(c) (i) A land use decision is arbitrary and capricious if the land use decision is not supported by substantial evidence in the record.

(ii) A land use decision is illegal if the land use decision [~~is~~]:

(A) is based on an incorrect interpretation of a land use regulation; [~~or~~]

(B) conflicts with the authority granted by this title; or

[~~(B)~~] (C) is contrary to law.

(d) (i) A court may affirm or reverse a land use decision.

(ii) If the court reverses a land use decision, the court shall remand the matter to the land use authority with instructions to issue a land use decision consistent with the court's ruling.

(4) The provisions of Subsection (2)(a) apply from the date on which the municipality takes final action on a land use application, if the municipality conformed with the notice provisions of Part 2, Notice, or for any person who had actual notice of the pending land use decision.

(5) If the municipality has complied with Section 10-9a-205, a challenge to the enactment of a land use regulation or general plan may not be filed with the district court more than 30 days after the enactment.

(6) A challenge to a land use decision is barred unless the challenge is filed within 30 days after the land use decision is final.

(7) (a) The land use authority or appeal authority, as the case may be, shall transmit to the reviewing court the record of the proceedings of the land use authority or appeal authority, including the minutes, findings, orders, and, if available, a true and correct transcript of the proceedings.

(b) If the proceeding was recorded, a transcript of that recording is a true and correct transcript for purposes of this Subsection (7).

(8) (a) (i) If there is a record, the district court's review is limited to the record provided by the land use authority or appeal authority, as the case may be.

(ii) The court may not accept or consider any evidence outside the record of the land use authority or appeal authority, as the case may be, unless that evidence was offered to the land use authority or appeal authority, respectively, and the court determines that the evidence was improperly excluded.

(b) If there is no record, the court may call witnesses and take evidence.

(9) (a) The filing of a petition does not stay the land use decision of the land use authority or appeal authority, as the case may be.

(b) (i) Before filing a petition under this section or a request for mediation or arbitration of a constitutional taking issue under Section 13-43-204, a land use applicant may petition the appeal authority to stay the appeal authority's land use decision.

(ii) Upon receipt of a petition to stay, the appeal authority may order the appeal authority's land use decision stayed pending district court review if the appeal authority finds the order to be in the best interest of the municipality.

(iii) After a petition is filed under this section or a request for mediation or arbitration of a constitutional taking issue is filed under Section 13-43-204, the petitioner may seek an injunction staying the appeal authority's land use decision.

(10) If the court determines that a party initiated or pursued a challenge to a land use decision on a land use application in bad faith, the court may award attorney fees.

Section 13. Section **17-27a-205** is amended to read:

17-27a-205. Notice of public hearings and public meetings on adoption or modification of land use regulation.

(1) Each county shall give:

(a) notice of the date, time, and place of the first public hearing to consider the adoption or modification of a land use regulation; and

(b) notice of each public meeting on the subject.

(2) Each notice of a public hearing under Subsection (1)(a) shall be:

(a) mailed to each affected entity at least 10 calendar days before the public hearing;

(b) posted:

(i) in at least three public locations within the county; or

(ii) on the county's official website; and

(c) (i) posted on the Utah Public Notice Website created in Section 63A-16-601, at least 10 calendar days before the public hearing; or

(ii) mailed at least 10 days before the public hearing to:

(A) each property owner whose land is directly affected by the land use ordinance change; and

(B) each adjacent property owner within the parameters specified by county ordinance.

(3) In addition to the notice requirements described in Subsections (1) and (2), for any proposed modification to the text of a zoning code, the notice posted in accordance with Subsection (2) shall:

(a) include a summary of the effect of the proposed modifications to the text of the zoning code designed to be understood by a lay person; and

(b) be provided to any person upon written request.

[~~(3)~~] (4) Each notice of a public meeting under Subsection (1)(b) shall be at least 24 hours before the hearing and shall be posted:

(a) in at least three public locations within the county; or

(b) on the county's official website.

[~~(4)~~] (5) (a) A county shall send a courtesy notice to each owner of private real property whose property is located entirely or partially within the proposed zoning map enactment or amendment at least 10 days before the scheduled day of the public hearing.

(b) The notice shall:

(i) identify with specificity each owner of record of real property that will be affected by the proposed zoning map or map amendments;

(ii) state the current zone in which the real property is located;

(iii) state the proposed new zone for the real property;

(iv) provide information regarding or a reference to the proposed regulations, prohibitions, and permitted uses that the property will be subject to if the zoning map or map amendment is adopted;

(v) state that the owner of real property may no later than 10 days after the day of the first public hearing file a written objection to the inclusion of the owner's property in the proposed zoning map or map amendment;

(vi) state the address where the property owner should file the protest;

(vii) notify the property owner that each written objection filed with the county will be provided to the county legislative body; and

(viii) state the location, date, and time of the public hearing described in Section 17-27a-502.

(c) If a county mails notice to a property owner in accordance with Subsection (2)(c)(ii) for a public hearing on a zoning map or map amendment, the notice required in this Subsection [~~(4)~~] (5) may be included in or part of the notice described in Subsection (2)(c)(ii) rather than sent separately.

Section 14. Section **17-27a-212** is amended to read:

17-27a-212. Notice for an amendment to public improvements in a subdivision or development.

[~~Prior to~~] Before implementing an amendment to adopted specifications for public improvements that apply to a subdivision or a development, a county shall [~~give 30 days mailed notice and an opportunity to comment to anyone who has requested the notice in writing.~~]:

(1) hold a public hearing;

(2) mail a notice 30 days or more before the date of the public hearing to:

(a) each person who has submitted a land use application for which the land use authority has not issued a land use decision; and

(b) each person who makes a written request to receive a copy of the notice; and

(3) allow each person who receives a notice in accordance with Subsection (2) to provide public comment in writing before the public hearing or in person during the public hearing.

Section 15. Section **17-27a-508** is amended to read:

17-27a-508. Applicant's entitlement to land use application approval -- Application relating to land in a high priority transportation corridor -- County's requirements and limitations -- Vesting upon submission of development plan and schedule.

(1) (a) (i) An applicant who has submitted a complete land use application, including the payment of all application fees, is entitled to substantive review of the application under the

land use regulations:

(A) in effect on the date that the application is complete; and

(B) applicable to the application or to the information shown on the submitted application.

(ii) An applicant is entitled to approval of a land use application if the application conforms to the requirements of the applicable land use regulations, land use decisions, and development standards in effect when the applicant submits a complete application and pays all application fees, unless:

(A) the land use authority, on the record, formally finds that a compelling, countervailing public interest would be jeopardized by approving the application and specifies the compelling, countervailing public interest in writing; or

(B) in the manner provided by local ordinance and before the applicant submits the application, the county formally initiates proceedings to amend the county's land use regulations in a manner that would prohibit approval of the application as submitted.

(b) The county shall process an application without regard to proceedings the county initiated to amend the county's ordinances as described in Subsection (1)(a)(ii)(B) if:

(i) 180 days have passed since the county initiated the proceedings; and

(ii) the proceedings have not resulted in an enactment that prohibits approval of the application as submitted.

(c) A land use application is considered submitted and complete when the applicant provides the application in a form that complies with the requirements of applicable ordinances and pays all applicable fees.

(d) The continuing validity of an approval of a land use application is conditioned upon the applicant proceeding after approval to implement the approval with reasonable diligence.

(e) A county may not impose on an applicant who has submitted a complete application a requirement that is not expressed:

(i) in this chapter;

(ii) in a county ordinance; or

(iii) in a county specification for public improvements applicable to a subdivision or development that is in effect on the date that the applicant submits an application.

(f) A county may not impose on a holder of an issued land use permit or a final,

unexpired subdivision plat a requirement that is not expressed:

(i) in a land use permit;

(ii) on the subdivision plat;

(iii) in a document on which the land use permit or subdivision plat is based;

(iv) in the written record evidencing approval of the land use permit or subdivision plat;

(v) in this chapter; or

(vi) in a county ordinance.

(g) Except as provided in Subsection (1)(h), a county may not withhold issuance of a certificate of occupancy or acceptance of subdivision improvements because of an applicant's failure to comply with a requirement that is not expressed:

(i) in the building permit or subdivision plat, documents on which the building permit or subdivision plat is based, or the written record evidencing approval of the building permit or subdivision plat; or

(ii) in this chapter or the county's ordinances.

(h) A county may not unreasonably withhold issuance of a certificate of occupancy where an applicant has met all requirements essential for the public health, public safety, and general welfare of the occupants, in accordance with this chapter, unless:

(i) the applicant and the county have agreed in a written document to the withholding of a certificate of occupancy; or

(ii) the applicant has not provided a financial assurance for required and uncompleted landscaping or infrastructure improvements in accordance with an applicable ordinance that the legislative body adopts under this chapter.

(2) A county is bound by the terms and standards of applicable land use regulations and shall comply with mandatory provisions of those regulations.

(3) A county may not, as a condition of land use application approval, require a person filing a land use application to obtain documentation regarding a school district's willingness, capacity, or ability to serve the development proposed in the land use application.

[~~(4) (a) Except as provided in Subsection (4)(b), for a period of 10 years after the day on which a subdivision plat is recorded, a county may not impose on a building permit applicant for a single-family dwelling located within the subdivision any land use regulation~~

~~that is enacted within 10 years after the day on which the subdivision plat is recorded.~~]

[~~(b) Subsection (4)(a) does not apply to any changes in the requirements of the applicable building code, health code, or fire code, or other similar regulations.~~]

[~~(5)~~] (4) Upon a specified public agency's submission of a development plan and schedule as required in Subsection 17-27a-305(8) that complies with the requirements of that subsection, the specified public agency vests in the county's applicable land use maps, zoning map, hookup fees, impact fees, other applicable development fees, and land use regulations in effect on the date of submission.

[~~(6)~~] (5) (a) If sponsors of a referendum timely challenge a project in accordance with Subsection 20A-7-601(5), the project's affected owner may rescind the project's land use approval by delivering a written notice:

(i) to the local clerk as defined in Section 20A-7-101; and

(ii) no later than seven days after the day on which a petition for a referendum is determined sufficient under Subsection 20A-7-607(4).

(b) Upon delivery of a written notice described in Subsection [~~(6)~~](5)(a) the following are rescinded and are of no further force or effect:

(i) the relevant land use approval; and

(ii) any land use regulation enacted specifically in relation to the land use approval.

Section 16. Section **17-27a-510** is amended to read:

17-27a-510. Nonconforming uses and noncomplying structures.

(1) (a) Except as provided in this section, a nonconforming use or a noncomplying structure may be continued by the present or a future property owner.

(b) A nonconforming use may be extended through the same building, provided no structural alteration of the building is proposed or made for the purpose of the extension.

(c) For purposes of this Subsection (1), the addition of a solar energy device to a building is not a structural alteration.

(2) The legislative body may provide for:

(a) the establishment, restoration, reconstruction, extension, alteration, expansion, or substitution of nonconforming uses upon the terms and conditions set forth in the land use ordinance;

(b) the termination of all nonconforming uses, except billboards, by providing a

formula establishing a reasonable time period during which the owner can recover or amortize the amount of his investment in the nonconforming use, if any; and

(c) the termination of a nonconforming use due to its abandonment.

(3) (a) A county may not prohibit the reconstruction or restoration of a noncomplying structure or terminate the nonconforming use of a structure that is involuntarily destroyed in whole or in part due to fire or other calamity unless the structure or use has been abandoned.

(b) A county may prohibit the reconstruction or restoration of a noncomplying structure or terminate the nonconforming use of a structure if:

(i) the structure is allowed to deteriorate to a condition that the structure is rendered uninhabitable and is not repaired or restored within six months after the day on which written notice is served to the property owner that the structure is uninhabitable and that the noncomplying structure or nonconforming use will be lost if the structure is not repaired or restored within six months; or

(ii) the property owner has voluntarily demolished a majority of the noncomplying structure or the building that houses the nonconforming use.

(c) (i) Notwithstanding a prohibition in the county's zoning ordinance, a county may permit a billboard owner to relocate the billboard within the county's unincorporated area to a location that is mutually acceptable to the county and the billboard owner.

(ii) If the county and billboard owner cannot agree to a mutually acceptable location within 180 days after the day on which the owner submits a written request to relocate the billboard, the billboard owner may relocate the billboard in accordance with Subsection 17-27a-512(2).

(4) (a) Unless the county establishes, by ordinance, a uniform presumption of legal existence for nonconforming uses, the property owner shall have the burden of establishing the legal existence of a noncomplying structure or nonconforming use through substantial evidence, which may not be limited to municipal or county records.

(b) Any party claiming that a nonconforming use has been abandoned shall have the burden of establishing the abandonment.

(c) Abandonment may be presumed to have occurred if:

(i) a majority of the primary structure associated with the nonconforming use has been voluntarily demolished without prior written agreement with the county regarding an extension

of the nonconforming use;

(ii) the use has been discontinued for a minimum of one year; or

(iii) the primary structure associated with the nonconforming use remains vacant for a period of one year.

(d) The property owner may rebut the presumption of abandonment under Subsection (4)(c), and has the burden of establishing that any claimed abandonment under Subsection (4)(c) has not occurred.

(5) A county may terminate the nonconforming status of a school district or charter school use or structure when the property associated with the school district or charter school use or structure ceases to be used for school district or charter school purposes for a period established by ordinance.

Section 17. Section **17-27a-531** is enacted to read:

17-27a-531. Moderate income housing.

(1) A county may only require the development of a certain number of moderate income housing units as a condition of approval of a land use application if:

(a) the county and the applicant enter into a written agreement regarding the number of moderate income housing units; or

(b) the county provides incentives for an applicant who agrees to include moderate income housing units in a development.

(2) If an applicant does not agree to participate in the development of moderate income housing units under Subsection (1)(a) or (b), a county may not take into consideration the applicant's decision in the county's determination of whether to approve or deny a land use application.

(3) Notwithstanding Subsections (1) and (2), a county of the third class, which has a ski resort located within the unincorporated area of the county, may require the development of a certain number of moderate income housing units as a condition of approval of a land use application if the requirement is in accordance with an ordinance enacted by the county before January 1, 2022.

Section 18. Section **17-27a-601** is amended to read:

17-27a-601. Enactment of subdivision ordinance.

(1) The legislative body of a county may enact ordinances requiring that a subdivision

plat comply with the provisions of the county's ordinances and this part before:

(a) the subdivision plat may be filed and recorded in the county recorder's office; and

(b) lots may be sold.

(2) If the legislative body fails to enact a subdivision ordinance, the county may regulate subdivisions only as provided in this part.

(3) The joining of a lot or lots to a parcel does not constitute a subdivision as to the parcel or subject the parcel to the county's subdivision ordinance.

(4) A legislative body may adopt a land use regulation that specifies that combining lots does not require a subdivision plat amendment.

Section 19. Section **17-27a-603** is amended to read:

17-27a-603. Plat required when land is subdivided -- Approval of plat -- Owner acknowledgment, surveyor certification, and verification of plat -- Recording plat.

(1) As used in this section:

(a) (i) "Facility owner" means the same as that term is defined in Section 73-1-15.5.

(ii) "Facility owner" includes a canal owner or associated canal operator contact described in:

(A) Section 17-27a-211;

(B) Subsection 73-5-7(3); or

(C) Subsection (6)(c).

(b) "Local health department" means the same as that term is defined in Section 26A-1-102.

(c) "State engineer's inventory of canals" means the state engineer's inventory of water conveyance systems established in Section 73-5-7.

(d) "Underground facility" means the same as that term is defined in Section 54-8a-2.

(e) "Water conveyance facility" means the same as that term is defined in Section 73-1-15.5.

(2) Unless exempt under Section 17-27a-605 or excluded from the definition of subdivision under Section 17-27a-103, whenever any land is laid out and platted, the owner of the land shall provide to the county in which the land is located an accurate plat that describes or specifies:

(a) a subdivision name that is distinct from any subdivision name on a plat recorded in

the county recorder's office;

(b) the boundaries, course, and dimensions of all of the parcels of ground divided, by their boundaries, course, and extent, whether the owner proposes that any parcel of ground is intended to be used as a street or for any other public use, and whether any such area is reserved or proposed for dedication for a public purpose;

(c) the lot or unit reference, block or building reference, street or site address, street name or coordinate address, acreage or square footage for all parcels, units, or lots, and length and width of the blocks and lots intended for sale;

(d) every existing right-of-way and recorded easement located within the plat for:

(i) an underground facility;

(ii) a water conveyance facility; or

(iii) any other utility facility; and

(e) any water conveyance facility located, entirely or partially, within the plat that:

(i) is not recorded; and

(ii) of which the owner of the land has actual or constructive knowledge, including from information made available to the owner of the land:

(A) in the state engineer's inventory of canals; or

(B) from a surveyor under Subsection (6)(c).

(3) (a) Subject to Subsections (4), (6), and (7), if the plat conforms to the county's ordinances and this part and has been approved by the culinary water authority, the sanitary sewer authority, and the local health department, if the local health department and the county consider the local health department's approval necessary, the county shall approve the plat.

(b) Counties are encouraged to receive a recommendation from the fire authority and the public safety answering point before approving a plat.

(c) A county may not require that a plat be approved or signed by a person or entity who:

(i) is not an employee or agent of the county; or

(ii) does not:

(A) have a legal or equitable interest in the property within the proposed subdivision;

(B) provide a utility or other service directly to a lot within the subdivision;

(C) own an easement or right-of-way adjacent to the proposed subdivision who signs

for the purpose of confirming the accuracy of the location of the easement or right-of-way in relation to the plat; or

(D) provide culinary public water service whose source protection zone designated as provided in Section 19-4-113 is included, in whole or in part, within the proposed subdivision.

(d) A county shall:

(i) within 20 days after the day on which an owner of land submits to the county a complete subdivision plat land use application, mail written notice of the proposed subdivision to the facility owner of any water conveyance facility located, entirely or partially, within 100 feet of the subdivision plat, as determined using information made available to the county:

(A) from the facility owner under Section 10-9a-211, using mapping-grade global positioning satellite units or digitized data from the most recent aerial photo available to the facility owner;

(B) in the state engineer's inventory of canals; or

(C) from a surveyor under Subsection (6)(c); and

(ii) not approve the subdivision plat for at least 20 days after the day on which the county mails to each facility owner the notice under Subsection (3)(d)(i) in order to receive any comments from each facility owner regarding:

(A) access to the water conveyance facility;

(B) maintenance of the water conveyance facility;

(C) protection of the water conveyance facility integrity;

(D) safety of the water conveyance facility; or

(E) any other issue related to water conveyance facility operations.

(e) When applicable, the owner of the land seeking subdivision plat approval shall comply with Section 73-1-15.5.

(f) A facility owner's failure to provide comments to a county in accordance with Subsection (3)(d)(ii) does not affect or impair the county's authority to approve the subdivision plat.

(4) The county may withhold an otherwise valid plat approval until the owner of the land provides the legislative body with a tax clearance indicating that all taxes, interest, and penalties owing on the land have been paid.

(5) (a) Within 30 days after approving a final plat under this section, a county shall

submit to the Utah Geospatial Resource Center, created in Section 63A-16-505, for inclusion in the unified statewide 911 emergency service database described in Subsection 63H-7a-304(4)(b):

(i) an electronic copy of the approved final plat; or

(ii) preliminary geospatial data that depict any new streets and situs addresses proposed for construction within the bounds of the approved plat.

(b) If requested by the Utah Geospatial Resource Center, a county that approves a final plat under this section shall:

(i) coordinate with the Utah Geospatial Resource Center to validate the information described in Subsection (5)(a); and

(ii) assist the Utah Geospatial Resource Center in creating electronic files that contain the information described in Subsection (5)(a) for inclusion in the unified statewide 911 emergency service database.

(6) (a) A county recorder may not record a plat unless, subject to Subsection 17-27a-604(1):

(i) prior to recordation, the county has approved and signed the plat;

(ii) each owner of record of land described on the plat has signed the owner's dedication as shown on the plat; and

(iii) the signature of each owner described in Subsection (6)(a)(ii) is acknowledged as provided by law.

(b) [~~The surveyor making~~] A surveyor who prepares the plat shall certify that the surveyor:

(i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;

(ii) (A) has completed a survey of the property described on the plat in accordance with Section 17-23-17 and has verified all measurements; [~~and~~] or

(B) has referenced a record of survey map of the existing property boundaries shown on the plat and verified the locations of the boundaries; and

(iii) has placed monuments as represented on the plat.

(c) (i) To the extent possible, the surveyor shall consult with the owner or operator, or a representative designated by the owner or operator, of an existing water conveyance facility

located within the proposed subdivision, or an existing or proposed underground facility or utility facility located within the proposed subdivision, to verify the accuracy of the surveyor's depiction of the:

(A) boundary, course, dimensions, and intended use of the public rights-of-way, a public or private easement, or grants of record;

(B) location of the existing water conveyance facility, or the existing or proposed underground facility or utility facility; and

(C) physical restrictions governing the location of the existing or proposed underground facility or utility facility.

(ii) The cooperation of an owner or operator of a water conveyance facility, underground facility, or utility facility under Subsection (6)(c)(i):

(A) indicates only that the plat approximates the location of the existing facilities but does not warrant or verify their precise location; and

(B) does not affect a right that the owner or operator has under Title 54, Chapter 8a, Damage to Underground Utility Facilities, a recorded easement or right-of-way, the law applicable to prescriptive rights, or any other provision of law.

(7) (a) Except as provided in Subsection (6)(c), after the plat has been acknowledged, certified, and approved, the owner of the land seeking to record the plat shall, within the time period and manner designated by ordinance, record the plat in the county recorder's office in the county in which the lands platted and laid out are situated.

(b) A failure to record a plat within the time period designated by ordinance renders the plat voidable by the county.

(8) A county acting as a land use authority shall approve a condominium plat that complies with the requirements of Section 57-8-13 unless the condominium plat violates a land use regulation of the county.

Section 20. Section **17-27a-608** is amended to read:

17-27a-608. Subdivision amendments.

(1) (a) A fee owner of a lot, as shown on the last county assessment roll, in a plat that has been laid out and platted as provided in this part may file a written petition with the land use authority to request a subdivision amendment.

(b) Upon filing a written petition to request a subdivision amendment under Subsection

(1)(a), the owner shall prepare and, if approved by the land use authority, record a plat in accordance with Section 17-27a-603 that:

(i) depicts only the portion of the subdivision that is proposed to be amended;

(ii) includes a plat name distinguishing the amended plat from the original plat;

(iii) describes the differences between the amended plat and the original plat; and

(iv) includes references to the original plat.

(c) If a petition is filed under Subsection (1)(a), the land use authority shall provide notice of the petition by mail, email, or other effective means to each affected entity that provides a service to an owner of record of the portion of the plat that is being amended at least 10 calendar days before the land use authority may approve the petition for a subdivision amendment.

(d) If a petition is filed under Subsection (1)(a), the land use authority shall hold a public hearing within 45 days after the day on which the petition is filed if:

(i) any owner within the plat notifies the county of the owner's objection in writing within 10 days of mailed notification; or

(ii) a public hearing is required because all of the owners in the subdivision have not signed the revised plat.

(e) A land use authority may not approve a petition for a subdivision amendment under this section unless the amendment identifies and preserves any easements owned by a culinary water authority and sanitary sewer authority for existing facilities located within the subdivision.

(2) The public hearing requirement of Subsection (1)(d) does not apply and a land use authority may consider at a public meeting an owner's petition for a subdivision amendment if:

(a) the petition seeks to:

(i) join two or more of the petitioning fee owner's contiguous lots;

(ii) subdivide one or more of the petitioning fee owner's lots, if the subdivision will not result in a violation of a land use ordinance or a development condition;

(iii) adjust the lot lines of adjoining lots or between a lot and an adjoining parcel if the fee owners of each of the adjoining properties join the petition, regardless of whether the properties are located in the same subdivision;

(iv) on a lot owned by the petitioning fee owner, adjust an internal lot restriction

imposed by the local political subdivision; or

(v) alter the plat in a manner that does not change existing boundaries or other attributes of lots within the subdivision that are not:

(A) owned by the petitioner; or

(B) designated as a common area; and

(b) notice has been given to adjoining property owners in accordance with any applicable local ordinance.

(3) A petition under Subsection (1)(a) that contains a request to amend a public street or county utility easement is also subject to Section 17-27a-609.5.

(4) A petition under Subsection (1)(a) that contains a request to amend an entire plat or a portion of a plat shall include:

(a) the name and address of each owner of record of the land contained in:

(i) the entire plat; or

(ii) that portion of the plan described in the petition; and

(b) the signature of each owner who consents to the petition.

(5) (a) The owners of record of adjoining properties where one or more of the properties is a lot may exchange title to portions of those properties if the exchange of title is approved by the land use authority in accordance with Subsection (5)(b).

(b) The land use authority shall approve an exchange of title under Subsection (5)(a) if the exchange of title will not result in a violation of any land use ordinance.

(c) If an exchange of title is approved under Subsection (5)(b):

(i) a notice of approval shall be recorded in the office of the county recorder which:

(A) is executed by each owner included in the exchange and by the land use authority;

(B) contains an acknowledgment for each party executing the notice in accordance with the provisions of Title 57, Chapter 2a, Recognition of Acknowledgments Act; and

(C) recites the legal descriptions of both the properties and the properties resulting from the exchange of title; and

(ii) a document of conveyance of title reflecting the approved change shall be recorded in the office of the county recorder with an amended plat.

(d) A notice of approval recorded under this Subsection (5) does not act as a conveyance of title to real property and is not required to record a document conveying title to

real property.

(6) (a) The name of a recorded subdivision may be changed by recording an amended plat making that change, as provided in this section and subject to Subsection (6)(c).

(b) The surveyor preparing the amended plat shall certify that the surveyor:

(i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;

(ii) (A) has completed a survey of the property described on the plat in accordance with Section 17-23-17 and has verified all measurements; [~~and~~] or

(B) has referenced a record of survey map of the existing property boundaries shown on the plat and verified the locations of the boundaries; and

(iii) has placed monuments as represented on the plat.

(c) An owner of land may not submit for recording an amended plat that gives the subdivision described in the amended plat the same name as a subdivision recorded in the county recorder's office.

(d) Except as provided in Subsection (6)(a), the recording of a declaration or other document that purports to change the name of a recorded plat is void.

Section 21. Section **17-27a-801** is amended to read:

17-27a-801. No district court review until administrative remedies exhausted -- Time for filing -- Tolling of time -- Standards governing court review -- Record on review -- Staying of decision.

(1) No person may challenge in district court a land use decision until that person has exhausted the person's administrative remedies as provided in Part 7, Appeal Authority and Variances, if applicable.

(2) (a) Subject to Subsection (1), a land use applicant or adversely affected party may file a petition for review of a land use decision with the district court within 30 days after the decision is final.

(b) (i) The time under Subsection (2)(a) to file a petition is tolled from the date a property owner files a request for arbitration of a constitutional taking issue with the property rights ombudsman under Section 13-43-204 until 30 days after:

(A) the arbitrator issues a final award; or

(B) the property rights ombudsman issues a written statement under Subsection

13-43-204(3)(b) declining to arbitrate or to appoint an arbitrator.

(ii) A tolling under Subsection (2)(b)(i) operates only as to the specific constitutional taking issue that is the subject of the request for arbitration filed with the property rights ombudsman by a property owner.

(iii) A request for arbitration filed with the property rights ombudsman after the time under Subsection (2)(a) to file a petition has expired does not affect the time to file a petition.

(3) (a) A court shall:

(i) presume that a land use regulation properly enacted under the authority of this chapter is valid; and

(ii) determine only whether:

(A) the land use regulation is expressly preempted by, or was enacted contrary to, state or federal law; and

(B) it is reasonably debatable that the land use regulation is consistent with this chapter.

(b) A court shall[~~: (i)~~] presume that a final land use decision of a land use authority or an appeal authority is valid[~~; and (ii) uphold the land use decision~~] unless the land use decision is:

[~~(A)~~] (i) arbitrary and capricious; or

[~~(B)~~] (ii) illegal.

(c) (i) A land use decision is arbitrary and capricious if the land use decision is not supported by substantial evidence in the record.

(ii) A land use decision is illegal if the land use decision [~~is~~]:

(A) is based on an incorrect interpretation of a land use regulation; [~~or~~]

(B) conflicts with the authority granted by this title; or

[~~(B)~~] (C) is contrary to law.

(d) (i) A court may affirm or reverse a land use decision.

(ii) If the court reverses a land use decision, the court shall remand the matter to the land use authority with instructions to issue a land use decision consistent with the court's decision.

(4) The provisions of Subsection (2)(a) apply from the date on which the county takes final action on a land use application, if the county conformed with the notice provisions of

Part 2, Notice, or for any person who had actual notice of the pending land use decision.

(5) If the county has complied with Section 17-27a-205, a challenge to the enactment of a land use regulation or general plan may not be filed with the district court more than 30 days after the enactment.

(6) A challenge to a land use decision is barred unless the challenge is filed within 30 days after the land use decision is final.

(7) (a) The land use authority or appeal authority, as the case may be, shall transmit to the reviewing court the record of the proceedings of the land use authority or appeal authority, including the minutes, findings, orders and, if available, a true and correct transcript of the proceedings.

(b) If the proceeding was recorded, a transcript of that recording is a true and correct transcript for purposes of this Subsection (7).

(8) (a) (i) If there is a record, the district court's review is limited to the record provided by the land use authority or appeal authority, as the case may be.

(ii) The court may not accept or consider any evidence outside the record of the land use authority or appeal authority, as the case may be, unless that evidence was offered to the land use authority or appeal authority, respectively, and the court determines that the evidence was improperly excluded.

(b) If there is no record, the court may call witnesses and take evidence.

(9) (a) The filing of a petition does not stay the land use decision of the land use authority or appeal authority, as the case may be.

(b) (i) Before filing a petition under this section or a request for mediation or arbitration of a constitutional taking issue under Section 13-43-204, a land use applicant may petition the appeal authority to stay the appeal authority's decision.

(ii) Upon receipt of a petition to stay, the appeal authority may order the appeal authority's decision stayed pending district court review if the appeal authority finds the order to be in the best interest of the county.

(iii) After a petition is filed under this section or a request for mediation or arbitration of a constitutional taking issue is filed under Section 13-43-204, the petitioner may seek an injunction staying the appeal authority's land use decision.

(10) If the court determines that a party initiated or pursued a challenge to a land use

decision on a land use application in bad faith, the court may award attorney fees.

Section 22. Section **57-1-45** is amended to read:

57-1-45. Boundary line agreements.

(1) [~~A boundary line~~] An agreement to adjust [~~the boundaries of~~] a known boundary between adjoining properties shall comply with Section 10-9a-524 or 17-27a-523, as applicable.

(2) A recorded boundary line agreement to establish the location of a boundary between adjoining properties where the location of the boundary is ambiguous, uncertain, or disputed shall comply with Subsections (3) and (4).

(3) A boundary line agreement between adjoining property owners establishing the owners' existing common boundary for the purpose of settling an ambiguity, uncertainty, or dispute shall include:

(a) the name and signature of each party to the agreement and, if applicable, the name and signature of a party's predecessor in interest who agreed to the location of the boundary line;

(b) the date of the boundary line agreement;

(c) the address of each party to the boundary line agreement for assessment purposes;

(d) a statement describing why the owners of adjoining properties were unable to determine the true location of the boundary line between the adjoining properties;

(e) a statement that the owners of the adjoining properties agree on the boundary line described in the boundary line agreement;

(f) a legal description of each parcel or lot that is subject to the boundary line agreement;

(g) a legal description of the agreed boundary line;

(h) (i) a reference to a record of survey map as defined in Section 17-23-17 in conjunction with the boundary line agreement that shows:

(A) existing dwellings, outbuildings, improvements, and other physical features;

(B) existing easements, rights-of-way, conditions, or restrictions recorded or apparent;

(C) the location of the agreed boundary line; and

(D) an explanation in the survey narrative of the reason for the boundary line agreement; or

(ii) if the parcels or lots are unimproved, an attached exhibit depicting a graphical representation of the location of the agreed boundary line relative to physical objects marking the agreed boundary;

(i) if any of the property that is the subject of the agreement is located in a recorded subdivision and the agreed boundary line is different from the boundary line recorded in the plat, an acknowledgment that each party to the agreement has been advised of the requirement of a subdivision plat amendment; and

(j) a sufficient acknowledgment for each party's signature.

(4) A boundary line agreement described in Subsection (3) may not be:

(a) used to adjust a known boundary described in Subsection (1) between adjoining properties;

(b) used to adjust a lot line in a recorded subdivision plat or create a new parcel or lot; or

(c) used by or recorded by a successor in interest to a property owner who agreed to the boundary line unless the property owners who agreed to the boundary line treated the line as the actual boundary as demonstrated by:

(i) actual possession by each owner up to the boundary line;

(ii) a fence built and agreed to by each owner on the boundary line; or

(iii) each owner cultivating or controlling the land up to the boundary line.

(5) A boundary line agreement described in Subsection (3):

(a) does not affect any previously recorded easement unless the easement is expressly modified by the boundary line agreement;

(b) establishes the common boundary between the adjoining properties in the originally intended location of the boundary line;

(c) affixes the ownership of the adjoining parties to the agreed boundary line;

(d) is not subject to the review or approval of a municipal or county land use authority; and

(e) shall be indexed by a county recorder in the title record against each property affected by the agreed boundary line.

(6) The recording of a boundary line agreement described in Subsection (3) does not constitute a land use approval by a municipality or a county.

(7) A municipality or a county may withhold approval of a land use application for property that is subject to a boundary line agreement described in Subsection (3) if the municipality or the county determines that the land, as established by the boundary line agreement, was not in compliance with the municipality's or the county's land use regulations in effect on the day on which the boundary line agreement was recorded.

(8) If a judgment made by a court that establishes the location of a disputed boundary is recorded in the county title record, the judgment shall act as a boundary line agreement recorded under this section.